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PATENT  
Attorney Docket No.: 011823-004920US  
Client Ref. No.: PDL0049-20

Box Issue Fee  
Commissioner for Patents  
Attn: Mail Stop Missing Parts  
P.O. Box 1450  
Alexandria, VA 22313-1450

On

September 27, 2007

TOWNSEND and TOWNSEND and CREW LLP

By:

Susan J. Johnson

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

J. YUN TSO

Application No.: 09/618,380

Filed: July 18, 2000

For: HUMANIZED ANTIBODIES  
AGAINST CD3

Customer No.: 45308

Confirmation No. 9002

Examiner: Huff, S. J.

Technology Center/Art Unit: 1643

APPLICATION FOR PATENT TERM  
ADJUSTMENT UNDER 37 C.F.R. § 1.705

Box Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**REMARKS**

In response to the Notice of Allowance mailed July 3, 2007 and in accordance with 37 C.F.R. § 1.705, the Applicants respectfully request reconsideration of the patent term adjustment.

**Statement Of Facts - 37 C.F.R. § 1.705(b)(2)**

**(i) Correct Patent Term Adjustment and Basis**

The Applicants respectfully submit that the correct patent term adjustment as of the date of allowance is 935 days, which is the difference between the total period of PTO examination delay (1,088 days) and the period of applicant delay (153 days).

Additional adjustment may be due for delays following payment of the issue fee in accordance with 37 C.F.R. § 1.703(b).

The patent term adjustment on the Determination of Patent Term Adjustment Under 35 U.S.C. § 154(b) that was attached to the Notice of Allowance is 0 days. A detailed Patent Term Adjustment ("PTAS sheet") was obtained by accessing the Patent Application Information Retrieval (PAIR) web site (a copy of the PTAS sheet is submitted herewith as Exhibit A). The discrepancy between the PTO's determination and applicants' can be traced to a single item relating to the alleged abandonment of the application between July 23, 2004 and April 23, 2007, for which no period of PTO delay was assigned.

In brief, applicants paid the issue fee on July 23, 2004. However, the issue fee was apparently not immediately matched with the application resulting in the issuance of a Notice of Abandonment of the above-referenced application on January 20, 2005 (see Exhibit A, line 74). On applicants' petition to withdraw the holding of abandonment on February 18, 2005, the Office verified the issue fee payment on February 22, 2005 (see Exhibit A, line 77). However, the Office did not grant the petition to rescind abandonment of the application until April 23, 2007 (see Exhibit A, line 83). During the period between February 22, 2005 (verification of issue fee payment by the Office) and April 23, 2007 (grant to rescind abandonment), Applicants *twice* requested the Office, on September 28, 2005 and January 27, 2007, to provide the status of their petition to withdraw the holding of abandonment of the above-referenced application. It was only after the second status request that the Office provided the decision of applicants' petition by the mailing of a Notice of Rescinded Abandonment on April 23, 2007.

It is respectfully submitted that the delay between July 23, 2004 and April 23, 2007 was due to the PTO's failure to match the issue fee with the file, and subsequent

inexplicable further delay in rescinding the holding of abandonment notwithstanding verification of the issue fee payment by February 22, 2005 and applicants' unanswered status requests. Therefore, applicants respectfully request the PTO be assigned a delay beginning on the day after the payment of issue fee on July 23, 2004 to the date the petition to rescind abandonment of the application was granted, *i.e.*, April 23, 2007 (*i.e.*, 1,004 days).

**(ii) Relevant Dates**

Additions to PTA

(1) As shown on the PTAS sheet (Exhibit A, line 17)

84 days

(2) Issue fee paid 07/23/2004, petition to revive application - granted 04/23/2007

07/23/2004-04/23/2007 = 1,004 days

**84 + 1004 = 1,088 days**

Subtractions from PTA:

As shown on the PTAS sheet (Exhibit A, lines 19 and 49)

**70 + 83 = 153 days**

**Calculation: 1,088-153=935 days**

**(iii) Terminal Disclaimer**

This application is currently subject to a terminal disclaimer to commonly-assigned patent, U.S. Patent No. 6,129,914, issued on October 10, 2000 and expires on October 10, 2017. Even with the requested patent term adjustment, it is believed a patent to issue on the present case will expire before the parent. Accordingly, the filing of a terminal disclaimer over the parent is believed not to affect the calculation of patent term adjustment.

**(iv) Circumstances**

There were no circumstances constituting a failure to engage in reasonable efforts to conclude processing or examination of the application.

PATENT

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**Conclusion**

Applicants respectfully request that the patent term adjustment be reconsidered.

The Commissioner is hereby authorized to charge the fee of \$200.00 for filing a request for reconsideration of the patent term adjustment as set forth in § 1.18(e), and any other fees which may be required, or credit any overpayment, to Deposit Account No. 20-1430.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 650-326-2400.

Respectfully submitted,



Joe Liebeschuetz  
Reg. No. 37,505

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Fax: 415-576-0300  
Attachment  
JOL:YEW:yew  
61153116 v1

## EXHIBIT A

09/618,380 HUMANIZED ANTIBODIES AGAINST CD3

09-12-  
2007::14:23:42**Patent Term Adjustments**

Patent Term Adjustment (PTA) for Application Number: 09/618,380

Filing or 371(c) Date:	07-18-2000	USPTO Delay (PTO) Delay (days):	84
Issue Date of Patent:	-	Three Years:	-
Pre-Issue Petitions (days):	+0	Applicant Delay (APPL) Delay (days):	153
Post-Issue Petitions (days):	+0	Total PTA (days):	0
USPTO Adjustment(days):	+0	Explanation Of Calculations	

**Patent Term Adjustment History**

	Date	Contents Description	PTO(Days)	APPL(Days)
116	07-03-2007	Mail Notice of Allowance		
115	07-03-2007	Mail Examiner's Amendment		
114	06-28-2007	Notice of Allowance Data Verification Completed		
113	06-28-2007	Document Verification		
112	06-28-2007	Examiner's Amendment Communication		
111	05-04-2007	Information Disclosure Statement considered		
110	05-10-2007	Information Disclosure Statement considered		
109	06-14-2007	Case Docketed to Examiner in GAU		
108	07-18-2000	Information Disclosure Statement considered		
107	07-18-2000	Information Disclosure Statement (IDS) Filed		
106	05-24-2007	CRF Is Good Technically / Entered into Database		
105	05-23-2007	CRF Is Good Technically / Entered into Database		
104	05-18-2007	Date Forwarded to Examiner		
103	05-18-2007	Date Forwarded to Examiner		
102	05-04-2007	Request for Continued Examination (RCE)		
101	05-18-2007	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)		
100	05-18-2007	Case Docketed to Examiner in GAU		
99	05-10-2007	Information Disclosure Statement (IDS) Filed		
98	05-04-2007	Information Disclosure Statement (IDS) Filed		
97	05-14-2007	Record Petition Decision of Granted to Withdraw from Issue - with assigned Patent NO.		
96	05-14-2007	Withdrawal Patent Case from Issue		
95	05-04-2007	Information Disclosure Statement (IDS) Filed		
94	05-04-2007	Petition Entered		
93	05-09-2007	Issue Notification Mailed		
92	05-09-2007	Workflow - Request for RCE - Finish		
91	05-29-2007	Patent Issue Date Used in PTA Calculation		
90	05-04-2007	Workflow - Request for RCE - Begin		
89	05-02-2007	Receipt into Pubs		
88	05-02-2007	Dispatch to FDC		
87	02-22-2005	Issue Fee Payment Verified		

86	05-01-2007	Dispatch to FDC	
85	01-16-2007	Miscellaneous Incoming Letter	
84	04-23-2007	Application Is Considered Ready for Issue	
83	04-23-2007	Petition to Revive Application - Granted	
82	02-22-2005	Issue Fee Payment Verified	
81	04-23-2007	Withdraw Publication/Pre-Exam Abandon	
80	02-22-2005	Petition Entered	
79	09-30-2005	Miscellaneous Incoming Letter	
78	03-03-2005	CRF Is Good Technically / Entered into Database	
77	02-22-2005	Issue Fee Payment Received	
76	04-14-2003	Reverse Issue Fee	
75	01-20-2005	Mail Abandonment for Failure to Pay Issue Fee	
74	01-20-2005	Abandonment for Failure to Pay Issue Fee	
73	12-22-2004	Record Petition Decision of Granted Related to Attorney	
72	06-02-2004	Petition Entered	
71	12-14-2004	Correspondence Address Change	
70	12-15-2004	Change in Power of Attorney (May Include Associate POA)	
69	12-10-2004	Receipt into Pubs	
68	07-26-2004	Workflow incoming petition IFW	
67	08-03-2004	CRF Is Good Technically / Entered into Database	
66	07-29-2004	Receipt into Pubs	
65	07-26-2004	Workflow incoming petition IFW	
64	06-11-2004	Receipt into Pubs	
63	06-02-2004	Sequence Forwarded to Pubs on Tape	
62	05-27-2004	Workflow - File Sent to Contractor	
61	05-26-2004	Workflow - File Sent to Contractor	
60	04-23-2004	Mail Notice of Allowance	
59	04-22-2004	Notice of Allowance Data Verification Completed	
58	04-22-2004	Case Docketed to Examiner in GAU	
57	02-25-2004	New or Additional Drawing Filed	
56	02-25-2004	Miscellaneous Incoming Letter	
55	03-10-2004	Date Forwarded to Examiner	
54	02-25-2004	Response after Ex Parte Quayle Action	
53	12-31-2003	Mail Ex Parte Quayle Action (PTOL - 326)	
52	12-30-2003	Ex Parte Quayle Action	
51	11-05-2003	Date Forwarded to Examiner	
50	11-05-2003	Date Forwarded to Examiner	
49	09-10-2003	Request for Continued Examination (RCE)	83
48	11-05-2003	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	↑
47	09-23-2003	CRF Is Good Technically / Entered into Database	↑
		Record Petition Decision of Granted to Withdraw from	

46	09-22-2003	Issue	↑
45	09-10-2003	Petition Entered	↑
44	09-10-2003	Workflow - Request for RCE - Begin	↑
43	06-09-2003	Receipt into Pubs	↑
42	06-05-2003	Dispatch to Publications	↑
41	06-04-2003	Dispatch to Publications	↑
40	04-14-2003	Issue Fee Payment Received	↑
39	03-19-2003	Mail Notice of Allowance	↑
38	03-18-2003	Notice of Allowance Data Verification Completed	
37	12-04-2002	Information Disclosure Statement (IDS) Filed	
36	12-04-2002	Information Disclosure Statement (IDS) Filed	
35	01-16-2003	Date Forwarded to Examiner	
34	12-04-2002	Request for Continued Examination (RCE)	
33	01-16-2003	DISPOSAL FOR A RCE/CPA/129 (express abandonment if CPA)	
32	01-03-2003	CRF Is Good Technically / Entered into Database	
31	12-04-2002	Workflow - Request for RCE - Finish	
30	12-04-2002	Workflow - Request for RCE - Begin	
29	10-21-2002	Receipt into Pubs	
28	09-16-2002	Workflow - File Sent to Contractor	
27	09-16-2002	Receipt into Pubs	
26	09-15-2002	Dispatch to Publications	
25	09-04-2002	Mail Notice of Allowance	
24	09-04-2002	Mail Notification of Terminal Disclaimer - Accepted	
23	09-03-2002	Notice of Allowance Data Verification Completed	
22	07-01-2002	Notification of Terminal Disclaimer - Accepted	
21	05-20-2002	Terminal Disclaimer Filed	
20	06-27-2002	Date Forwarded to Examiner	
19	05-20-2002	Response after Non-Final Action	70
18	05-20-2002	Request for Extension of Time - Granted	↑
17	12-11-2001	Mail Non-Final Rejection	84
16	12-10-2001	Non-Final Rejection	↑
15	11-16-2001	CRF Is Good Technically / Entered into Database	↑
14	11-03-2001	Date Forwarded to Examiner	↑
13	10-19-2001	Response to a Letter to Comply with the Sequence Rules	↑
12	10-06-2001	Case Docketed to Examiner in GAU	↑
11	09-28-2001	Mail Non-Bonafide Response to Sequence Request	↑
10	09-27-2001	Non-Bonafide Response to Sequence Request	↑
9	08-08-2001	Case Docketed to Examiner in GAU	↑
8	04-02-2001	Preliminary Amendment	↑
7	12-19-2000	Preliminary Amendment	↑
6	01-08-2001	Case Docketed to Examiner in GAU	↑

5	01-02-2001	Application Dispatched from OIPE	⬆
4	01-02-2001	Application Is Now Complete	⬆
3	10-03-2000	Correspondence Address Change	⬆
2	08-04-2000	IFW Scan & PACR Auto Security Review	⬆
1	07-18-2000	Initial Exam Team nn	⬆

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